

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14049, of George Howard and Emilie Jeanne Bechtel, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Sub-section 7106.1 to change a non-conforming use from rooming house, thirty-five bedrooms, to a nine unit apartment house and for variances from the prohibition against the enlargement of a structure devoted to a non-conforming use (Paragraph 7106.14), the lot occupancy requirements (Sub-section 3303.1), the rear yard requirements (Sub-section 3304.1), and from the prohibition against allowing structural alterations to a non-conforming structure devoted to a non-conforming use (Paragraph 7106.13) for the proposed renovation and addition to a building which is a non-conforming structure devoted to a non-conforming use in a D/R-3 District at premises 2201 Massachusetts Avenue, N.W., (Square 2512, Lot 800).

HEARING DATE: October 19, 1983  
DECISION DATE: November 2, 1983

FINDINGS OF FACT:

1. At the public hearing, the applicants amended the application to eliminate the variance from the court requirements of Sub-section 3306.1.
2. The subject site is located at the northwest corner of the intersection of Massachusetts Avenue and 22nd Street, N.W. and is known as premises 2201 Massachusetts Avenue, N.W. It is in a D/R-3 District.
3. The site is generally triangular in shape with approximately 109.42 feet of frontage on 22nd Street and approximately fifty feet of frontage on Massachusetts Avenue. The site contains approximately 2,771 square feet of land area. It is improved with a brick five-story rooming house and a brick one-story garage constructed in 1901. The rooming house contains approximately 8,773 square feet of floor area. Its main entrance is located on 22nd Street.
4. The site is abutted on the north by a fifteen foot wide public alley which provides access to 22nd Street to the east and R Street to the north of the site. There are thirty-one structures within a 300 foot radius of the site. Eleven of these are used for diplomatic offices, five are

institutional and club uses, and seven are apartments. Seven are single family dwellings, which comprise twenty-three percent of the total.

5. The site is located in a D/R-3 District which extends as far east as Florida Avenue and S Street, N.W. to the area of Sheridan Circle and northwest along Massachusetts Avenue, N.W. Southeast of the site across 22nd Street is an SP-1 and R-5-D District along Massachusetts Avenue.

6. The subject property, known as the Argyle Guest House, lies within and is a prominent member of the Massachusetts Avenue Historic District.

7. The structure was originally built as a single family residence for Captain Frederick A. Miller. The building was designed by Paul J. Pelz, associate architect for the Library of Congress. The residence is a late example of the Queen Anne and Romanesque Revivals, modified by 16th Century North European Renaissance details. The building was known as "one of the most beautiful homes in the National Capital."

8. Between 1901 and 1923, the property changed ownership several times but remained as a single family residence. In 1923 the building was converted to offices for the Costa Rican and Salvadorean litigations. The building was vacant from 1927 to 1933. Its present use as a rooming house began in 1936. The structure has not served as a single family residence since 1923.

9. Since 1936 the structure has been allowed to fall into disrepair. The south chimney breast has been removed from its original location and rebuilt in the southwest corner. An enclosed porch on the north facade and two story tile conservatory were added but later removed. The interior has been subdivided into thirty-five sleeping rooms with little regard for the original room layout. Interior trim, wood paneling and plaster cornice details have been removed, cut, or are in serious disrepair from damage by occupants. A makeshift bathroom has been installed in the lobby. The original grandeur of the lobby has been compromised by numerous changes and poor treatment. Many of the rooms are so small that lofts have been installed for sleeping. Repairs have been made in a temporary fashion. Electrical wiring has been left exposed. The exterior has been given minimal attention over the years. There is no evidence of concern for energy conservation or protection of exterior walls from weather damage.

10. Presently there are thirty-five or more persons residing on the premises. The tenants are transients with a high turnover rate. Interior conditions are extremely poor

with respect to basic housing needs and requirements. Requirements for health and safety are only marginally met. The building's present physical condition creates potentially serious health and safety hazards to the inhabitants.

11. The applicants have a contract to sell the building to a developer who proposes to renovate the building as a nine unit apartment house as a condominium. The renovation will correct the existing fire and building code deficiencies. The important architectural features of the building will be preserved and restored in the spirit of the original design. The proposed apartment use will consist of five two bedroom units and four one bedroom units. New plumbing, electrical and mechanical facilities will be installed. The new interior plan will compliment the original grand design of the architect Pelz. The first floor lobby, original dining room and existing fireplace mantles, will be retained and restored. The exterior facade will be refurbished to its original grand appearance.

12. The contract purchaser proposes to make structural alterations to allow the installation of two private elevators, interior convenience stairs for duplex units and roof skylights. The alterations will have minor impact on the character of the historic interior. These alterations will not be visible from the exterior.

13. The contract purchaser proposes to roof over the existing depressed courtyard between the house and the garage as a 339 square foot addition. The courtyard, located at the basement floor, varies between thirteen and twenty feet in width and is shielded almost entirely from direct sunlight by the main building to the south and ten foot high walls to the east and west. Roofing over the courtyard will increase the basement living space. The roof will be built between the two existing exterior walls of the court. No new exterior walls will be constructed. Three small window openings will be placed in the existing wall along 22nd Street.

14. There are no existing on-site parking spaces. The existing garage is too small to be used for automobile storage as it measures eight feet wide by 16.5 feet deep. Thus, it is less than the required nine foot by nineteen foot size for parking spaces. The garage is proposed to be enclosed as residential living space with minor exterior alterations.

15. There are six on-street parking spaces directly in front of the building on 22nd Street subject to the residential parking permit program. There are three spaces along the Massachusetts Avenue frontage available for weekend and evening parking. In addition, other on-street

residential permit spaces are located within two blocks of the building. A day/evening parking exchange typically occurs between embassy workers and residents.

16. The site is located two blocks from the Dupont Circle Metrorail Station. The area is a major hub for Metro bus transportation in the Northwest section of the city with routes on Massachusetts and Florida Avenues, Q, 22nd and 23rd Streets.

17. The contract purchaser testified that the decreased occupancy and use change will substantially decrease the number of vehicular trips to and from the site. A survey of tenants at the building in June of 1983 indicated that six of the tenants owned automobiles which were parked on adjacent public streets. The parking needs of the occupants of the proposed nine apartments units will be equal to or less than those of the thirty-five rooming units. It is the intention of the applicant to provide off-street parking as part of the lease he enters into with three tenants who have cars. The applicant is in the process of securing long term off-street parking for the residents of the building.

18. The subject lot is bounded by a forty foot deep public space between the lot line and sidewalk along Massachusetts Avenue and a seventeen foot public space along 22nd Street.

19. The contract purchaser testified that the proposed renovation and restoration of the subject property was approved by the Joint Committee on Landmarks on September 22, 1983.

20. The R-3 District requires a minimum lot area of 4,000 square feet. The subject lot contains 2,771 square feet.

21. A minimum lot width of forty feet is required. The subject property has average lot width of 25.32 feet.

22. A maximum lot occupancy of forty percent or 1,108.4 square feet is allowed and 2,146 square feet including the 339 square foot addition, is provided, requiring a variance of 1,037 square feet or ninety-four percent.

23. The requested seventy-seven percent lot occupancy is consistent with the lot occupancy of the majority of the properties within 300 feet of the subject structure. All of the properties on the 1600 block of 22nd Street have a lot occupancy in excess of seventy-five percent.

24. A rear yard of twenty feet is required and 5.56 feet is provided, requiring a variance of 14.44 feet or seventy-two percent.

25. The proposed rear yard of 5.56 feet is consistent with the rear yards of the majority of the corner properties within 300 feet of the subject site. The properties at 2131, 2200 and 2209 Massachusetts Avenue, 1621 and 1607 22nd Street have no rear yard. The proposed enlargement will not physically alter the existing structure nor be visible from the street.

26. The Zoning Administrator has determined that no off-street parking is required and none is provided.

27. Paragraph 7106.11 of the Zoning Regulations, provides that, if approved by the Board of Zoning Adjustment, a non-conforming use may be changed to a use which is permitted as a matter-of-right in the most restrictive district in which the existing non-conforming use is permitted as a matter-of-right, provided that:

- A. The proposed use will not adversely affect the present character or future development of the surrounding area.
- B. The proposed use will not create any deleterious external effects, including but not limited to noise, traffic, parking and loading considerations, illumination, vibration, odor, and design and siting effects.
- C. The Board may require the provision of or direct changes, modifications, or amendments to any design, plan, screening, landscaping, type of lighting, nature of any sign, pedestrian or vehicular access, parking and loading, hours of operation, or any other restriction or safeguard it may deem necessary to protect the value, utilization, or enjoyment of property in the neighborhood.

28. A rooming house is first permitted in the R-4 District, pursuant to Paragraph 3104.36 of the Zoning Regulations. Paragraph 3104.33 of the Zoning Regulations permits an apartment house in the R-4 District as a matter-of-right as a conversion of a building or other structure existing before May 12, 1958.

29. Paragraph 7106.13 of the Zoning Regulations provides that ordinary repairs, alterations or modernizations may be made to a structure or portion thereof devoted to a nonconforming use. Structural alterations are not allowed except those required by other municipal law or regulations, provided that structural alterations are permitted to a lawfully existing nonconforming flat or apartment house located within a residential district.

30. Paragraph 7106.14 of the Zoning Regulations provides that a structure devoted to a nonconforming use may not be enlarged, except if such enlargement is to be devoted to a conforming use. A new structure may not be erected to house a nonconforming use.

31. The Office of Planning, by report dated October 20, 1983, recommended that the application be approved in that it meets the purpose and intent of Paragraph 8207.11 and Sub-section 8207.2 of the Zoning Regulations. The Office of Planning was of the opinion that the proposal to renovate the subject premises has merit. In the view of the Office of Planning, the special exception and variances were technical considerations that are supported by the site's physical constraints, including size, shape, depth and the existence of a pre-1958 structure. The Office of Planning noted the site's use history, architectural significance and location as additional reasons for encouraging the upgrading of this structure. The Office of Planning was cognizant of the many large formerly residential structures within the city and the Sheridan-Kalorama neighborhood in particular which have been converted for use as foreign missions, and was encouraged that the subject proposal will maintain the residential history of this property.

32. The Office of Planning believed that the applicant met the criteria of Paragraph 7106.11. A thirty-five bedroom rooming house and an apartment house are both first permitted in the R-4 District. The rooming house use of the premises has existed for the past forty-seven years. The Office of Planning was of the opinion that the proposed nine unit apartment house will not adversely affect the present character or future development of the surrounding area within a radius of 300 feet around subject site. The reduction in the residential tenant population at this site will change the existing rooming house use to a more restrictive use which will in turn reduce substantially any noise or other deleterious effects resulting from the proposed use.

33. The Office of Planning found that the requested variances under Paragraph 7106.13 and 7106.14 of the Zoning Regulations reflect the difficult and unique circumstances faced by the applicants in developing this property in strict accordance with the Zoning Regulations. The variances are requested to allow the construction of two stairways and elevator cores to serve the top floor apartments, to alter the size of several windows for increased light and ventilation, to build a roof over a courtyard to create a first floor apartment and for the addition of skylights. The Office of Planning was of the opinion that the requested variances will not cause detriment to the architectural integrity of the buildings. The exceptional narrowness, shape and age of the property and

existing buildings makes a practical disposition of interior apartment spaces difficult to achieve. The preservation of the historical interior elements such as the lobby and stairs is an exceptional situation.

34. The Office of Planning believed that the applicants have a practical difficulty in requesting variances to enlarge the existing structure. The area to be expanded is confined within the walls of a depressed courtyard located between the existing structure and the garage. The new enclosed space will be combined with the garage as an apartment unit. The new exterior wall or roof construction will not be visible from the street, nor will it physically alter the existing structure. The floor level of the depressed courtyard is ten to twelve feet below its east and west walls, respectively. Narrow unobtrusive windows are proposed to be made in the east wall to provide natural light to the new enclosed space. The Office of Planning further believed that the requested variances reflect a condition similar to other corner properties and will not substantially impair the intent, purpose or integrity of the Zoning Regulations. The Board concurs with the findings and recommendation of the Office of Planning.

35. Four letters in support of the application were received into the record from residents of 1620 22nd Street and 2131, 2203 and 2212 Massachusetts Avenue, N.W. Two individuals of 1605 and 1718 22nd Street, N.W. and a representative of the Dupont Circle Citizens Association appeared at the public hearing and testified in support of the application. Support for the application was based on the following:

- a. The proposed residential use is in the best interest and will be an asset to the community. It will not have the impact of other uses.
- b. While no parking can be provided on the site, the proposed use will involve as few cars as any other use. However, there is a general concern for parking in the neighborhood.

The Board concurs with the views and recommendation of those residents and the Dupont Circle Citizens Association in support of the application.

36. A resident of 1616 22nd Street, N.W. and a representative of the Residential Action Coalition appeared at the public hearing and testified in opposition to the application stating concern for the lack of parking in the neighborhood and that the proposed nine units is an over intensification of the property. However, both supported the restoration of the property for residential use. The Board disagrees with the opposition that nine units is too

intensive. The Board finds that the proposed nine units is clearly less intensive than the legally permitted matter-of-right thirty-five bedroom rooming house. The Board finds that no parking can be provided on-site and that there are some available on street parking spaces. The Board concurs with the opposition that the subject property should be restored for residential use.

37. Advisory Neighborhood Commission 1D by report dated October 11, 1983, stated that the Commission voted unanimously to support the application for the following reasons:

- a. There is no off-street parking available no matter what use is made of the building.
- b. Accepting the above fact, the best use would be for residential purposes. Apartments are preferable to chancery, private school or offices. While residents would have permit parking available on the street, their numbers are bound to be fewer than the number of people who would come and go for non-residential purposes.
- c. The proposed renovation would be a huge improvement. At present the house is in a grossly deteriorating condition and is an eyesore in the neighborhood.
- d. Both the Historic Preservation Review Board and the Dupont Circle Conservancy have approved the design.

The Board concurs with the views and recommendation of the ANC.

CONCLUSIONS OF LAW AND OPINION:

Based on the evidence of record and the findings of fact, the Board concludes that the applicants are seeking a special exception and area variances. In order to be granted the special exception relief requested, the applicants must show through substantial evidence that they have complied with the requirements of Sub-section 7106.1 of the Zoning Regulations.

The Board concludes that the applicants have complied with the requirements of Sub-section 7106.1 of the Regulations. The proposed use is less intense than the previous rooming house use. The proposed apartment house and rooming house are both first permitted in the R-4 District. The proposed use will not adversely affect the present character or future development of the surrounding area within 300 feet in all directions. The proposed



apartment house will add permanent residents to the neighborhood. The intensity of use will be reduced from a thirty-five unit rooming house in poor condition to a completely renovated nine unit apartment building. The structure will be renovated to its historic grandeur and will be recycled for a practical use which is complementary with the structure and the surrounding neighborhood.

The Board concludes that the proposed use will not generate any deleterious external effects, such as noise, vibration, smoke or odor emanating from the structure. The decrease in occupancy will decrease the vehicular traffic to and from the site. The parking needs of the nine apartment units are not expected to exceed those of the existing thirty-five rooming units. A survey of existing tenants conducted in June, 1983, revealed that six of the tenants had cars which were parked in the neighborhood. The change in use to apartment house will eliminate congestion caused by rooming house short term occupancy.

The area within a two block radius indicates sufficient residential permit parking spaces are available during the day, including six spaces directly in front of the property on 22nd Street. There are commercial lots available in the surrounding area to provide additional parking if needed. The applicant has also taken additional steps to secure off-street parking for the future residents of the building. The subject property is located at the hub of public transportation for Northwest Washington. The Dupont Circle Metrorail station is located two blocks from the site and there are several Metrobus routes within two blocks of the site.

As to the variances requested, the Board concludes that they are area variances, the granting of which requires a showing of a practical difficulty inherent in the property itself. The Board concludes that the applicants have met the burden of proof with regard to the four area variances. The subject structure existed before the effectiveness of the present Zoning Regulations. The site is exceptionally narrow and irregularly shaped making practical layout of apartment spaces difficult to achieve. Structural alterations are needed to install interior stairs, elevators and skylights to improve circulation within the structure as well as to bring the structure up to Building Code standards. The proposed addition will not be visible from the street and provides an appropriate use of a substandard garage and courtyard area. The requirements for preservation of the structure's interior and exterior results in an additional exceptional situation and places an undue hardship on the applicant. The Board concludes that the variance relief can be granted without substantial detriment to the public good and without substantially

impairing the intent, purpose and integrity of the zone plan.

The Board also concludes that it has accorded to the ANC the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is hereby GRANTED SUBJECT to the CONDITION that construction be in accordance with revised plans marked as Exhibit No. 30 of the record.

VOTE: 4-0 (Douglas J. Patton, Charles R. Norris and William F. McIntosh to grant; Walter B. Lewis to grant by proxy; Carrie L. Thornhill not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER:

**FEB 23 1984**

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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